

REMARKS

Claims

Claims 6, 12–15, 17 and 23 are currently under examination with claims 7–11, 16 and 18–21 withdrawn from consideration due to restriction/election. Claims 1–5 and 22 are cancelled without prejudice or disclaimer.

Claim amendments

The claims have been amended according to conventional US practice.

Claim 6 has been converted into an independent claim. Claims 9–21 and 23 are either directly or indirectly made dependent thereon.

The amendment of claim 23 is supported by the disclosure contained in, for example, page 5, lines 20–27 and page 7, ¶3 of the originally-filed specification. See also, the disclosure contained in Example 2.

Applicants respectfully submit that the amendments presented herein do not raise new matter and involve minimal search burden on the PTO, if any. Entry thereof is earnestly solicited.

Claim objections

The Examiner is thanked for her careful reading of the claims. The objection of claim 23 is moot in view of the amendment of the claim.

Rejection under 35 U.S.C. §112, ¶2

Claim 6 has been amended to use claim language in accordance with conventional US practice. The issue of lack of antecedent basis is moot in view of the amendments.

The rejection of claims 1, 4 and 22 under this section is moot in view of cancellation of said claims.

Withdrawal of the rejection is respectfully requested.

Rejoinder

Withdrawn claims 9–11 along with claims 16, 18, and 20 are drawn to a method of making/using the compound(s) and/or composition(s) of the instant invention and recite all the elements of Applicants' product claims. "If a product claim is found allowable, process claims that depend from or otherwise require all the limitations of the patentable product may be rejoined." See M.P.E.P. § 806.05.

Rejoinder thereof is therefore respectfully requested.

Rejection under 35 U.S.C. §102(b)

The contention that the subject matter of Applicants' claim 22 is anticipated by Focke (*FASEB Journal*, vol. 15, 2042-44, 2001) is respectfully traversed.

It is respectfully submitted that the rejection is moot in view of the amendments. Applicants' amendment of the claim is not to be construed acquiescence to this or any other rejection. Moreover, claims 9–21 and 23, which are either directly or indirectly dependent on instant claim 6, are also free of cited prior art. Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §112, ¶1

Reconsideration of the rejection of claims 1, 4–6, 12–15 and 17 under this section is respectfully requested.

At page 7 of the Office Action, it is alleged that “the specification only disclosed [sic] the Phl p 1 allergen mutant *consisting of* SEQ ID NO: 2.” Again at page 13, the Office Action contends that “Applicant is in possession of a Phl p 1 allergen mutant *consisting of* SEQ ID NO: 2.” These contentions are both incorrect. The specification, for example, in the disclosure contained in Examples 1 and 2 discloses synthesis and purification of polypeptides in native-form (i.e., untagged) and in fusion-form (i.e., His-tagged). The activity of such molecules, for example, with respect to IGE reactivity, is further described in page 17 of the specification. As such, the present specification provides a detailed description of the claimed subject matter (for example, polypeptides *comprising* SEQ ID NO: 2 and/or uses thereof). Moreover, the disclosure therein enables one of ordinary skill in the art to *make and use* the claimed invention in its broadest possible scope. Withdrawal of this contention is respectfully requested.

With respect to the fold-forms of the Phl p 1 polypeptides claimed herein (see, claims 13 and 14), it is respectfully submitted that the specification provides a detailed disclosure of the characteristics thereof, including methods for making and using such molecules in a manner described in the claims. See, for example, the disclosure contained in Figures 1–3 and the description thereof at page 5 of the originally-filed specification.

With regard to the other outstanding allegations of non-enablement, Applicants respectfully disagree with the PTO's contentions. However, in order to facilitate prosecution, the claims have been amended. It is submitted that the forgoing amendments render the rejections under 35 U.S.C. §112, ¶1 moot. Withdrawal of the rejection is respectfully requested.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any remaining issues which could be expedited by a telephone conference, the Examiner is courteously invited to telephone counsel at the number indicated below.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

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